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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,178	08/25/2003	Richard Andrew Schelle		1530

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Richard A. Schelle
P O Box 887
Plymouth, MA 02362

EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,178

Applicant(s)

SCHELLE ET AL.

Examiner

David J Parsley

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 2-18-05 and this action is final.

Claim Rejections - 35 USC § 112

2. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "said hole angled up from the front to back" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,133,134 to Cheng.

Referring to claim 1, Cheng discloses a line and reel system lure comprising, chum tube means – at 23, to load and hold fish oil attractant for a controlled release of the fish oil attractant – see for example figures 1-6 and columns 4-5, means – at 14,15 or the fishing line (not shown) connected at – 12, coupled to the chum tube for trolling deeper, means – at 12, coupled to the output of the chum tube means for rotating the lure and receiving fish oil attractant over the lure – see for example figures 1-6.

Referring to claim 2, Cheng discloses the chum tube means comprises lead head means – at 14 or 15, with a hole – see figures 1-3, for loading fish oil attractant – see for example figures 1-6.

Referring to claim 4, Cheng discloses the lead head means – at 14, comprises an eye – see at 12, at the front and top to keep the chum tube means upright when trolled – see for example figures 1-6.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng as applied to claim 2 above, and further in view of U.S. Patent No. 2,968,886 to Cotroumpas.

Referring to claim 3, Cheng discloses the lead head means – at 14 or 15, provides a deeper depth at which the lure is trolled – see for example figures 1-6. Cheng does not disclose the lead head means has a hole angled up from the front to the back. Cotroumpas does disclose a head means – at 95, having a hole angled up from the front to the back- see at 97. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cheng and add the head means with angled hole of Cotroumpas, so as to allow for fluid to be forcefully ejected from the hole.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng as applied to claim 2 above, and further in view of U.S. Patent No. 6,789,349 to Stone. Cheng does not disclose a three-inch long piece of rope to absorb and control the release of the attractant. Stone does disclose a rope – at 11 or 11'', to absorb and control the release of the attractant – see for example figures 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cheng and add the rope to control release of the attractant of Stone, as to allow for the attractant to be longer lasting and not wasted. Cheng as modified by Stone does not disclose the rope is 3 inches, however it would have been obvious to one of ordinary skill in the art to make the rope 3 inches, so as to facilitate the rope extending into and out of the lure body. Further, applicant's disclosure places no criticality on the dimension of the rope being 3 inches in length.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng as applied to claim 1 above.

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Referring to claim 6, Cheng discloses the chum tube means comprises a dowel – at 15, with an offset hole – see figures 1-6, to seal the back end of the chum tube and also control the release of the fish oil attractant – see for example figures 1-6. Cheng does not disclose a $\frac{3}{4}$ inch wood dowel, however it would have been obvious to one of ordinary skill in the art to use a $\frac{3}{4}$ inch wood dowel on the device of Cheng, so as to make the device lightweight.

Referring to claim 7, Cheng discloses the dowel means – at 15, with offset hole causes the lure to swing erratically – see for example figures 1-6 and columns 4-5.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng as applied to claim 1 above, and further in view of U.S. Patent No. 6,763,631 to Santini. Cheng does not disclose a barrel swivel for rotating the lure. Santini does disclose a barrel swivel – at 12 or 30, to rotate the lure. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cheng and add the barrel swivel of Santini, so as to allow for the lure to be movable into different positions to attract fish.

Response to Arguments

5. Applicant offers no arguments to the 35 U.S.C. 112 2nd paragraph rejections and to the prior art rejections set forth in paragraphs 7-9 in the previous office action dated 12-28-04. Therefore, the rejections set forth above in paragraphs 2-4 of this office action stand.

Conclusion

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6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP

David Parsley
Patent Examiner
Art Unit 3643

Peter M. Poon

PETER M. POON
SUPERVISORY PATENT EXAMINER

4/22/05